

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HILARY K. GAMACHE, individually and on
behalf of all similarly situated individuals

No. C-15-2112 EMC

Plaintiff,

v.

DESERT CHAMPIONS LLC,

Defendant.

**ORDER GRANTING PLAINTIFF'S
MOTION FOR LEAVE TO FILE
AMENDED COMPLAINT; DENYING
DEFENDANT'S MOTION TO DISMISS
AND STRIKE**

(Docket No. 10)

On June 18, 2015, Defendant Desert Champions filed a motion to dismiss a portion of Plaintiff's complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), and to strike certain other discrete portions of the complaint. Docket No. 10. In opposition, Plaintiff agreed to voluntarily dismiss the legal allegations challenged by Defendant under Rule 12(b)(6), and sought leave to file an amended complaint that removes those challenged allegations. Docket No. 18. Plaintiff's request for leave to file her amended complaint is **GRANTED**, and Defendant's motion to dismiss is **DENIED** as moot.

The same material that Defendant seeks to strike from Plaintiff's initial complaint remains present in Plaintiff's proposed amended complaint. To save the litigants the expense of filing a re-noticed motion to strike, the Court will rule on that motion now. Defendant's motion to strike is **DENIED**. Motions to strike are generally disfavored, *see Malem Medical, Ltd. v. Theos Medical Sys., Inc.*, No. 13-cv-5236-EMC, 2014 WL 3568885, at *2 (N.D. Cal. July 18, 2014), and will only be granted in rare circumstances. Here, the very limited material that Defendant seeks to strike is not obviously "immaterial" at this very early stage of the litigation, and it is certainly not

1 scandalous, impertinent, or redundant. Fed. R. Civ. P. 12(f). Defendant's motion to strike is
2 without merit. The hearing currently set for this matter on August 27, 2015, is hereby **VACATED**.
3 Plaintiff shall file her proposed amended complaint within five (5) days of the date of this Order.

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5 This Order disposes of Docket No. 10.

6 IT IS SO ORDERED.

7
8 Dated: August 17, 2015



EDWARD M. CHEN
United States District Judge